

REMARKS

Claims 1, 3, and 5 are pending in the application.

Claim 1 has been to clarify that the protein material is non-thermally degraded prior to heat treatment. Support can be found, for example, at page 2, lines 1-3.

No new matter is added. Entry is requested.

Response to Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1, 3, and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamai.

Applicants respectfully traverse.

Present claim 1 is directed to a method for controlling hydrogen sulfide odor generated in a treatment of a protein material at a high temperature under elevated pressure, which comprises adding ascorbic acid, isoascorbic acid, or dihydroascorbic acid, or ascorbic acid stearic acid ester, ascorbic acid palmitic acid ester or salts thereof to non-thermally degraded protein material and an optional secondary material, thereafter treating said non-thermally degraded protein material and the optional secondary material at a high temperature under elevated pressure until the temperature thereof rises to from 110 to 200 degrees C, cooling said treated protein material and the optional secondary material, and obtaining a food material.

In the present Action, the Office admits that Hamai does not teach adding ascorbic acid to the protein material *per se* prior to the heating step. However, the Office takes the position that Hamai discloses substantially the same product produced by substantially the same method as is presently claimed; and where the claimed and prior art products are produced by substantially identical processes. *See* Office Action at Paragraph 3.

This position is incorrect. The Office's position is based upon page 4 of the machine translation of Hamai, which refers to a "second mode" (i.e. a second embodiment) of heating the protein in solution with ascorbic acid. This machine interpretation is misleading and oversimplified.

The English-language translation of Hamai (submitted by Applicants with the Amendment Under 37 C.F.R. § 1.111 filed on January 28, 2010), is a more accurate and complete translation of Hamai.

In the English-language translation of Hamai, the "second mode" or "second embodiment" is discussed at page 8, lines 3-8:

"According to a second embodiment of the invention which spares used of the freezing step, the structured compound is directly submitted to heating treatment which consists of heating the compound in a solution containing an oxidizing agent such as potassium bromate, hydrogen peroxide, etc. or a reducing agent such as ascorbic acid, sodium sulfite, etc." Page 8, lines 4-9, emphasis added.

"Structured compound" refers to a fish material that is exposed to high temperature and high pressure, as explained at page 7, lines 11-12 of the English-language translation of Hamai. Accordingly, the second embodiment of Hamai —the embodiment relied on by the Office as being "substantially the same product produced by substantially the same method" (*see* Office Action at page 3) —actually includes an additional heating step. This additional heating step is important because it changes the resultant product by irreversibly denaturing (gelling) the fish material *prior* to heating the fish meat material again in solution with ascorbic acid.

To clarify this difference between the fish material resulting from the present method versus the fish material resulting from Hamai, Applicants amend claim 1 herein to recite that the present fish material is non-thermally degraded when ascorbic acid is added. This is clearly not

described in Hamai, wherein the fish material is first heated, turning the material into gel-like substance, then placed into solution and heated again.

In view of the above, a *prima facie* case of obviousness has not been established, since elements of Applicants' claimed method are missing from Hamai.

In addition to the above, Applicants submit that the presently claimed method is superior over the method disclosed in Hamai. At the minimum, by virtue of requiring only a single heat treatment step versus requiring both a denaturing heating step and a second solution heat treatment step, the present method is clearly more efficient than the method disclosed in Hamai.

For at least the above reasons, the present claims are patentable over Hamai. Reconsideration and withdrawal of the §103(a) rejection of claims 1, 3 and 5 based on Hamai is respectfully requested.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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